

## **Exhibit N:**

Cited Testimony Regarding  
Oracle Improved Attrition

1 but I've also heard customers say that they were quite  
2 pleased with some of the new enhancements that we have.

3 Q. Finally got better, but there were some that were  
4 frustrated; right?

5 A. I'm sure there were a few.

6 Q. Okay. And was the same also true in your  
7 experience -- do you know anything about Siebel? When it  
8 was acquired by Oracle, was there a customer frustration  
9 with the change in the website?

10 A. I didn't really come from Siebel so I don't know if  
11 I could answer that question.

12 Q. Fair enough. Fair enough.

13 Now, you talked a lot about upgrades and kind of  
14 the lifecycle. Let's go to the next slide, the Oracle  
15 lifetime support.

16 Premier support, 22 percent of the original  
17 license cost; right?

18 A. No.

19 Q. No?

20 A. No. So, the license fee is negotiated at the  
21 beginning. So there's an original fee, and there's a list  
22 fee, if you will, and that can be negotiated. It can be  
23 negotiated even up to 50 percent off, and then you come up  
24 with a net. So it's 22 percent of net.

25 Q. So it's 22 percent of the original amount of the

1 negotiated license fee; correct?

2 A. Correct.

3 Q. And the negotiation occurs regarding the license  
4 fee, not the maintenance fee; correct?

5 A. That is correct.

6 Q. And Oracle never discounts its maintenance fee;  
7 correct?

8 A. The 22 percent we don't discount.

9 Q. Now, I thought I heard you testify, and I may have  
10 gotten you wrong, sometimes you waive that 22 percent?

11 A. No. So what I was explaining is in this extended  
12 support period there's --

13 Q. The 10 percent on top of the 22 percent?

14 A. That's -- so they're --

15 Q. So 24.2 percent? Sometimes they waive that two  
16 percent, 2.2 percent?

17 A. That's correct.

18 Q. Okay. Okay. I just wanted to be clear on that. So  
19 what's getting waived is that 10 percent add-on, not the  
20 full 22 percent.

21 A. That's correct.

22 Q. All right. Now, looking at this product lifetime  
23 support, you said that the -- I tried to get it right, and  
24 I don't have a record, and if I got it wrong, let me know.  
25 The cost was a very small amount. Do you remember that

1 testimony?

2 A. Of the overall IT budget?

3 Q. Of the overall IT budget.

4 A. Enterprise software is a small amount of IT budget.

5 Q. Now, that's not true in every case, and I won't go  
6 into detail. Over your years of experience, there have  
7 been some customers that have said "I'm out, it's just too  
8 expensive for me," correct?

9 A. I think -- I haven't analyzed every single customer,  
10 but for some of those customers, if they are going  
11 bankrupt, then, yes, they don't have a choice to pay.

12 Q. It's not all going bankrupt, some just say "I don't  
13 want to pay it anymore"; right?

14 A. Customers, yes, I think there's been a few.

15 Q. Customers, like people, come in all different shapes  
16 and sizes; right?

17 A. That's correct.

18 Q. Okay. Now, over the time that you've worked with JD  
19 Edwards, and I thought I heard you say it, some folks  
20 leave, but about 95 percent a year stay; is that correct?

21 A. Correct.

22 Q. Now, I don't expect that you're going to be  
23 intimately familiar necessarily with PeopleSoft and JD  
24 Edwards, but you know about JD Edwards.

25 MR. ISAACSON: Just to clarify, this is not from

1 the opening, this was used with Safra Catz.

2 MR. STRAND: I apologize. It was used with  
3 Ms. Catz yesterday.

4 THE WITNESS: Okay.

5 MR. STRAND: So don't mess up.

6 BY MR. STRAND:

7 Q. Looking at this JD Edwards attrition, this was  
8 calculated by an expert working with Oracle. JD Edwards  
9 retention rate was from 91 percent up through 96, 95  
10 percent. Do you see that?

11 A. Yes, 91 percent in 2006.

12 Q. Has it been your experience that somewhere about 95  
13 percent of the people are retained, 95 percent of the  
14 customers are retained every year going all the way back to  
15 the mid '90s?

16 A. Yes, I would say so.

17 Q. Do you know about PeopleSoft? Would the same be  
18 true for them?

19 A. I'm not as familiar with PeopleSoft customer base.

20 Q. What about PeopleSoft from the time you were  
21 acquired by PeopleSoft in '03, about 95 percent retention?

22 A. Yes, would I say that's fair.

23 Q. Is that kind of industry standard?

24 A. I don't know if it's industry standard or not.

25 Q. It's Oracle standard?

1 A. It is Oracle standard.

2 Q. Okay. And woe unto you who fall below that 95  
3 percent; right?

4 A. Can you ask that question again?

5 Q. I'm sorry, I'll withdraw it. It was a bad question.

6 Now, as we just briefly discussed, there are a  
7 variety of reasons won't you agree, that customers leave  
8 Oracle? You mentioned bankruptcy for one?

9 A. That's correct.

10 Q. And you, in fact, initiated a project to monitor why  
11 Oracle JDE customers left Oracle, didn't you?

12 A. Can you be more specific?

13 Q. Sure. Why don't we bring up 160 -- excuse me, DTX  
14 165, if we could, please?

15 A. Okay.

16 Q. Now, I lost my --

17 MR. ISAACSON: That one's preadmitted.

18 MR. STRAND: Oh, that one's preadmitted so we  
19 can show it.

20 BY MR. STRAND:

21 Q. And you'll be able to -- I'm sorry. There's a  
22 notebook right in front of you?

23 A. I was going to say I can't read it.

24 Q. It's not an eye test?

25 A. Well, it is.

1 Q. Trust me, I'm there.

2 Look at DTX 165 in the notebook in front of you.

3 A. Okay.

4 Q. Do you have that?

5 A. I do.

6 Q. And what I'll do is you're free to look at the  
7 notebook or you're free to look at the screen, and what I  
8 want to talk about I'll have her pop up on the screen. All  
9 right?

10 A. Oh, that's much better.

11 MR. STRAND: All right. So let's go to the  
12 from-to section, Marie, up there at the top, and blow that  
13 up.

14 BY MR. STRAND:

15 Q. This is an email to you from a Mr. Steve Boulton in  
16 August of 2007; correct?

17 A. Yes, that's correct.

18 Q. And it's described as the 2000 fiscal year -- excuse  
19 me, fiscal year '07 Customer Trending Project; correct?

20 A. Yes, it is.

21 Q. And then let's go down to the middle paragraph  
22 there. It seems like it says in addition, but there's a  
23 blotch on it. She'll pull that out.

24 I think it says,

25 "In addition to the regional reporting, we

1 viewed the output globally. This gave us a much broader  
2 picture of what our customers are saying, and the data  
3 sample gave more representative than the original breakdown  
4 where some samples were small."

5 Do you see that?

6 A. Yes, I do.

7 Q. And is this customer trending one of those projects  
8 that you started, Ms. Ransom?

9 A. So, yes, as I testified earlier, I do monthly and  
10 quarterly operations reviews. And so this was a deep dive  
11 operation's review, somewhat standard business practice.

12 Q. Sure. You defined many terms, and if you defined  
13 this one, I missed it. I apologize. Analyst. What's an  
14 analyst?

15 A. So, an analyst is an engineer and vice versa.

16 Q. That might be one of those people that interacts  
17 with the customer, with the licensee?

18 A. Yes.

19 MR. STRAND: Okay. Let's look back at page 26  
20 of this slide deck, Marie, it's 0878.

21 BY MR. STRAND:

22 Q. Okay. It says Improvement Summary. Do you see  
23 that? I'm sorry. It's page 26 of the deck itself --

24 A. Okay.

25 Q. -- if you want to turn there.



1 There are 12 people listed on the first page and two listed  
2 on the second page, and my question is this:

3 Looking at those two pages, you're still  
4 calculating as part of your damage base damages for about  
5 10 of those customers; correct?

6 A. I don't know.

7 Q. Okay. You don't know. You have no reason to  
8 believe you're not doing that; correct?

9 A. Well, I could easily look.

10 Q. I know, but we won't take everybody's time to do  
11 that. We'll work that out later.

12 Now, you watched customer videos, or -- did you  
13 read the depositions or watch the videos or both?

14 A. I've seen some videos here in the courtroom.

15 Q. And did you read Mr. Yourdon's report?

16 A. I did.

17 Q. And you were here this morning for his testimony;  
18 right?

19 A. Yes.

20 Q. Okay. I want to talk a little bit about customer  
21 attrition/retention, kind of two heads of the same coin.

22 A. Okay.

23 Q. Okay. You'll agree with me that each year Oracle  
24 loses some of its maintenance and support customers;  
25 correct?

1 A. I'll agree with that.

2 Q. And I believe the number 95 percent, because it's  
3 not absolutely precise for every product line for every  
4 year, but 95 percent seems to be about the right number  
5 that stay, and 5 percent leave every year; correct?

6 A. Well, I would classify it as 95 stay and 5 cancel  
7 their contracts.

8 Q. Five cancel their contracts. That's fine.

9 So every year -- and you're also aware that the  
10 maintenance and support agreements between Oracle and its  
11 customers renew each year; correct?

12 A. In general.

13 Q. Generally speaking. About 16,000 customers --  
14 14,000 customers; correct?

15 A. About 14,000. Well, I don't know.

16 Q. Okay.

17 A. Different amounts at different times.

18 Q. All right. I've heard 14,000, I've heard 10,000 for  
19 PeopleSoft and JDE, but I'm trying to get -- about 5  
20 percent of those cancel each year; correct?

21 A. About 5 percent of them do not support -- do not  
22 renew their support, that's right.

23 Q. So every -- every year Oracle has to go out and  
24 re-earn the right to continue to provide maintenance and  
25 support service for those customers, correct? Because they

1 have the right to say thanks, we're done?

2 A. Well, I would imagine they're living out the whole  
3 year. It's not like they just go out the last two days and  
4 try to renew them.

5 But, yes, Oracle works throughout its year to  
6 keep customers.

7 Q. Keep customers. But they've got to earn those  
8 customers year after year after year, it's not a one-time  
9 for-life kind of deal; correct?

10 A. Yeah, Oracle's customers are not locked in for  
11 support.

12 Q. So there's no guarantees that those customers are  
13 going to come back every year; correct?

14 A. There is no guarantee.

15 Q. Now, you did an analysis of Oracle's customer  
16 retention from 2006 up to early 2014; correct?

17 A. That's correct.

18 MR. STRAND: All right. And that one has been  
19 in evidence or in front of the jury. So let's pull that  
20 one up, if we could, please, Marie.

21 BY MR. STRAND:

22 Q. This looks a lot like a demonstrative based upon  
23 your analysis, correct, Ms. Dean?

24 A. It looks like it, yes.

25 Q. Okay. And while it says -- I thought I had your

1 reference on it. But this is the analysis that --  
2 basically the results of the analysis that you did showing  
3 what percentage of customers Oracle retained year over  
4 year; correct?

5 A. For support renewal, yes.

6 MR. STRAND: Okay. And then we could present it  
7 another way. It's been done another way. Let's look at  
8 that next slide.

9 Can we darken that up, or is that all we got?

10 BY MR. STRAND:

11 Q. All right. So about 94 to 96 percent stay, and  
12 about 5 to 3 percent, 6 percent, cancel their contracts  
13 ever year; correct?

14 A. Is this a merge of all three products?

15 Q. It's kind of a merge of all three products so it's  
16 not so busy.

17 A. Okay.

18 Q. Does that look fair to you?

19 A. I think that sounds fair.

20 Q. All right. Now, looking at this Rimini Street made  
21 its first sale to a client in 2007; isn't that correct?

22 A. I think -- did they have clients in 2006? No, they  
23 just announced in 2006. You're right. They don't have a  
24 client until 2007.

25 Q. Correct.

1                   Okay. As far as you know -- well, were you here  
2 for Ms. Ransom's testimony on Tuesday?

3           A.       Some of it, yes.

4           Q.       All right. Let's all get on the same page. Let's  
5 look at 1318 beginning at line 7.

6                   I asked her, "Looking at this JD Edwards  
7 attrition, this was calculated by an expert working with  
8 Oracle," you didn't know you had already started in the  
9 case, "JD Edwards' retention rate was from 91 percent up  
10 through 96, 95 percent. Do you see that?"

11                   She says, "Yes, 91 percent in 2006."

12                   Then it goes on, let's just go down to the next  
13 Q and A. Beginning at line 12.

14                   "Has it been your experience that somewhere  
15 about 95 percent of the people are retained, 95 percent of  
16 the customers are retained every year going all the way  
17 back to the mid-1990s?"

18                   And her answer, "Yes, I would say so."

19                   Do you see that?

20           A.       Yes, I do.

21           Q.       You don't have any reason to disagree that the  
22 historical attrition rate has been in that 95 -- excuse me,  
23 historical retention rate has been about in that 95 percent  
24 range; correct?

25           A.       That's correct, although I would say one caveat, and

1 that's the information I was provided was based on revenue,  
2 not a customer count.

3 Q. Let's talk a little about that. That's a good  
4 point.

5 You did your analysis on how many dollars were  
6 up for renewal and how many dollars cancelled; correct?

7 A. That's right. That was Oracle's methodology.

8 Q. And that 95 percent that you come up with is the 95  
9 percent of dollars that stayed rather than cancelled;  
10 right?

11 A. When they were up for renewal, that's right.

12 Q. Right. So that the numbers were dollars, not  
13 people.

14 A. Right.

15 Q. But on average, on average you could equate the  
16 retention rate in dollars to people, couldn't you, to  
17 customers?

18 A. Well, I think you would need to be careful that you  
19 were -- I can understand the mathematical way that you  
20 could do that, but I think you would need to be careful to  
21 know what the average customer is for the amount that is  
22 available to renew and the amount that chose to be cancel.

23 Q. But you testified in your deposition, didn't you,  
24 Ms. Dean, that you could equate the retention rate in  
25 dollars to customers?

1       A.       I think you and I were discussing a hypothetical  
2       circumstance where you told me to assume there were 10,000  
3       customers, and couldn't I divide it, and I said yes.

4       Q.       Okay. I'm going to do that now. You're ahead of  
5       me. The witness is leading counsel.

6               If you have 10,000 JDE -- or, excuse me, JDE and  
7       PeopleSoft customers, say just 10,000, you've heard that  
8       number, I think it's in your report?

9       A.       No, that was the number that was disclosed in 2005  
10      when --

11      Q.       When they were acquired.

12      A.       -- Oracle bought PeopleSoft. But I don't know how  
13      relevant that number is to any other period.

14      Q.       And it's probably pretty close to that in 2006,  
15      wouldn't you think?

16      A.       I don't know.

17      Q.       Okay. So if we take 6 percent of 10,000, how many  
18      customers do we end up with?

19      A.       600.

20      Q.       Or 500 if we end up with 5 percent?

21      A.       Yes.

22      Q.       Okay.

23      A.       I'm not sure what you meant by how much do we end up  
24      with, but applying the percentage against the total.

25      Q.       You can agree with me that there was no year that

1 Rimini obtained so much as five or 600 PeopleSoft and JDE  
2 customers; correct?

3 A. Not during the time period that I was analyzing,  
4 that's correct.

5 Q. Now, just so we kind of set framework, again, you  
6 talked about this with Mr. Isaacson, but the damages period  
7 that you've calculated damages for begins in 2006; correct?

8 A. For any customer that left to go to Rimini in this  
9 2006 which we just decided didn't happen.

10 Q. Didn't happen.

11 So we've got -- but it's 2006 to 2014 is the  
12 damage period for activities that occurred between 2006 and  
13 late 2011, early -- excuse me, late 2011; correct?

14 A. That's right.

15 Q. Okay. Cool.

16 Now, you can't look at any information that you  
17 have available to you from Oracle and determine how many of  
18 the 6 percent of PeopleSoft customers who left Oracle in  
19 any given year went to Rimini; correct?

20 A. I'm not sure I'm following your question.

21 Q. Sure. Is there any information that you have that  
22 you can look at and say that of the customers that left  
23 Oracle in a given year, how many of the 6 percent that left  
24 Oracle went to Rimini?

25 A. Well, I know how many went to Rimini because I have



1 that from Rimini's records. I don't know how Oracle would  
2 necessarily know that.

3 Q. Okay. What about the rest of the 6 percent of the  
4 customers, 5 or 6 percent of the customers that would leave  
5 Oracle, do you have any way of knowing where they went if  
6 they didn't go to Rimini?

7 A. Yes, I do.

8 Q. Did you analyze that?

9 A. Well, I saw evidence in the case with respect to  
10 that. The vast majority of them don't use the software.  
11 They're not going anywhere. They're cancelling support  
12 because they're not using the licensed software.

13 Q. The one thing we know, though, is that all customers  
14 that left Oracle in a given year did not go to Rimini;  
15 correct?

16 A. They didn't go anywhere. There were -- some  
17 customers went to Rimini, some customers might have gone to  
18 TomorrowNow or CedarCrestone that are not acceptable  
19 alternatives. But most of the customers don't go anywhere,  
20 they just cancel support because they're not using the  
21 software.

22 Q. I don't want to parse words with you. Not all of  
23 the customers that cancel with Oracle sign a contract with  
24 Rimini; correct?

25 A. I would agree with that.